



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

**[Docket Number FRA-2012-0069]**

### **Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated July 26, 2012, Midwest Rail d.b.a. Toledo Lake Erie and Western Railway (TLEW) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 223–Safety Glazing Standards–Locomotives, Passenger Cars and Cabooses. FRA assigned the petition Docket Number FRA-2012-0083.

Specifically, TLEW seeks a waiver of compliance from the requirements of 49 CFR Section 223.11–*Requirements for existing locomotives* and 49 CFR § 223.13–*Requirements for existing cabooses*. TLEW has petitioned FRA for a waiver for one American Locomotive Company Model S-4, 1000-horsepower diesel electric locomotive numbered 5109 (TLEW 5109). This locomotive was built for the Chesapeake and Ohio Railroad in 1954. The locomotive is equipped with standard window material that is shatter resistant. All windows of TLEW 5109 are in excellent shape with unobstructed visibility. The locomotive will be used for both excursion passenger and freight service.

TLEW also seeks a waiver for Caboose TLEW 475, which is a steel caboose, Association of American Railroads-type M930, built in 1962, and equipped with shatter-resistant glazing. The existing window framing on this caboose is not compatible with the required FRA Type I and II glazing. Other than the glazing, the caboose meets all other FRA safety requirements. The caboose will be used for both excursion passenger and freight trains where reverse movements are required. It will provide a safe platform for crewmembers to ride and protect the movements through the rural and wooded areas of operation.

Midwest Rail is committed to operating freight and tourist/excursion rail service from Waterville, Milepost (MP) 13.2, to Grand Rapids, OH, MP 25.0, and then return; a one-way distance of 11.8 miles. The line is located in a rural area, between the communities of Waterville and Grand Rapids, with a combined population of less than 7,000. There are no overhead bridge structures or areas of elevation along the railroad that would allow objects to be thrown from above. Based on historical information provided from the prior operator of this line, there have been no reports of vandalism, objects thrown, or other acts of malicious destruction to railroad equipment during operation in the last 10 years. The maximum authorized speed for freight and excursion movements will not exceed 15 mph. Locomotive TLEW 5109 is primarily used in yard switching service. TLEW states that the railroad is private and does not currently operate any trains.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New

Jersey Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business,

labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or online at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on November 15, 2012.

Robert C. Lauby  
Deputy Associate Administrator  
for Regulatory and Legislative Operations

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